

## **REMARKS**

Claims 1-50 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

### **Double Patenting Rejection:**

The Examiner rejected claims 1-50 under the judiciary created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Pat. No.: 6,237,009). Applicants respectfully traverse this rejection for at least the following reasons.

Applicants' claim 1 recites sending a lease renewal response message automatically by a client message endpoint without intervention by the client process, wherein the client process is configured to send and receive messages via the same client message endpoint to access the resource provided by the service. Thus, claim 1 recites that the same message endpoint that is used by the client process to send and receive messages for accessing the resource provided by the service also sends the lease renewal response message automatically without intervention by the client process. Waldo's claims recite a lease manager that manages a lease on behalf of a client, but Waldo's claims do not suggest that the lease manager is also used as a client message endpoint by the client to send and receive messages to access a leased resource provided by a service.

The Examiner argues that it would be obvious to automate the process claimed by Waldo. However, even if the lease management claimed in Waldo were automated, it would not suggest that the same message endpoint that is used by the client process to send and receive messages for accessing the resource provided by the service also sends the lease renewal response message. Thus, Applicants' claim 1 is clearly not obvious from the claims of Waldo. Similar arguments apply to independent claims 12, 24 33, 41 and 46.

In response to Applicants' arguments above, the Examiner argues, "the client message endpoint would be the email program used to send and receive email." **However, Waldo does not use email messages in his lease renewal service.** Instead, Waldo's system includes a distributed garbage collection scheme in which a method invocation component in each computer of a distributed processing system keeps track of the outstanding references to a resource. A method call that increments the reference count is referred to as a "dirty call." Waldo teaches that a dirty call may include a requested time interval, called a lease period, for the reference to the requested resource. Waldo's system does not include any email programs or email messages, as suggested by the Examiner. As stated by Waldo, "the lease manager provides a number of method that allow a client to interact with the lease manager" (see, Waldo, column 16, lines 52 – 67). Clients in Waldo's system utilize remote method invocation (RMI) to interact with the lease manager by invoking the methods exposed by the lease manager. Email message and email programs are not part of Waldo's system. In fact, a search of the Waldo reference fails to produce a single reference to email message or email programs. Thus, the Examiner's statement is completely unsupported by the Waldo reference and is based solely on the Examiner's own speculation. As such, the Examiner has not provided any rebuttal to Applicants' argument regarding the failure of what is claimed in Waldo to teach or suggest that the same message endpoint used by the client process to send and receive messages for accessing the resource provided by the service also sends the lease renewal response message.

For the reasons stated above, Applicants respectfully request removal of the obviousness-type double patenting rejection.

#### **Section 103(a) Rejection:**

The Examiner rejected claims 1-50 under 35 U.S.C. § 103(a) as being unpatentable over Wollrath et al. (U.S. Patent 5,832,529) (hereinafter "Wollrath"). Applicants respectfully traverse this rejection for at least the reasons below.

**Regarding claim 1, Wollrath clearly fails to teach or suggest a client message endpoint receiving a lease renewal request message that references the resource provided by the service.** The Examiner cites claims 1, 9, 11 and 52, FIG. 2 and the Abstract of Wollrath, none of which describe or illustrate anything regarding receiving a lease renewal request message. Instead, claims 1, 11 and 52, FIG. 2 and the Abstract of Wollrath simply describe a process by which a client may obtain a shared lease for a resource for a granted lease period. Claim 9 of Wollrath mentions sending a request to the lease manager process for a new lease period upon a determination that the granted lease period is about to expire. However, this determination is made by the user of the resource based on the length of the granted lease period. The portions of Wollrath cited by the Examiner mention nothing of a client message endpoint receiving a lease renewal request message that references the resource provided by the service.

**Furthermore, Wollrath does not teach or suggest the client message process sending a lease renewal response message automatically without intervention by the client process, wherein the client process is configured to send and receive messages via the same client message endpoint to access the resource provided by the service.** The Examiner argues that it would be obvious to automate the lease renewal process in light of the teachings of Wollrath. First of all, as noted above, Wollrath does not mention anything regarding lease renewal messages and lease renewal response messages. Wollrath only mentions sending a request to the lease manager process for a new lease period upon a determination that the granted lease period is about to expire. This determination is made by the user of the resource based on the length of the granted lease period. The portions of Wollrath cited by the Examiner mention nothing of a client message endpoint receiving a lease renewal request message and sending a lease renewal response message. Thus, even if the lease management of Wollrath was automated, it would not suggest a client message endpoint that receives a lease renewal request message and sends a lease renewal response message.

In response to Applicants argument above, the Examiner argues that “the processes of renewing and originating a lease are similar in their basics, a paper denoting

lease terms must be negotiated and signed by both parties.” This statement by the Examiner indicates a miss understanding of both Applicants’ claimed invention and the teachings of Wollrath. Neither Applicants’ claimed invention nor Wollrath has anything to do with paper leases signed by parties. Wollrath does not mention any paper lease documents, nor is Wollrath concerned with paper lease documents. Instead, Wollrath teaches a method of distributed garbage collection involving computer processes allocating and deallocating computer resources. The Examiner is apparently confusing commercial leases between people or companies with the concept of computer processes leasing computer resources from computers or processes.

The Examiner also seems to be confusing commercial advertisements for goods or services with advertisements that include information to enable access by client processes to resources provided by computer-based service processes and made available to client processes. For example, the Examiner states in the Response to Arguments, “[t]he offer of renewal of a lease would be considered to be an advertisement as it is a message for the purpose of eliciting a monetary response from the viewer. The types of commercial leasing and advertising the Examiner is referring to have absolutely no relevance to Applicants’ claims or to the Waldo and Wollrath references.

The Examiner contends that by using the term leases, Wollrath discloses the leasing of services. However, Wollrath teaches a system specifically configured to allow a garbage collector process to reclaim resources after a guaranteed referenced to that resource lapses thereby guaranteeing referential integrity “without costly memory leaks” (column 3, lines 14 – 30). It would not make sense to apply Wollrath’s system to leased services as services are not resources that can be reclaimed through garbage collection. The Examiner has clearly misunderstood and/or misinterpreted Wollrath’s teachings.

Furthermore, Wollrath does not teach or suggest that the same message endpoint that is used by the client process to send and receive messages for accessing the resource provided by the service also sends the lease renewal response message automatically without intervention by the client process. In Wollrath, lease management

communications are not performed through the same message endpoint that is used by the client process to send and receive messages for accessing the resource provided by the service. Thus, even if the lease management of Wollrath were automated, it would not suggest that the same message endpoint that is used by the client process to send and receive messages for accessing the resource provided by the service also sends the lease renewal response message automatically without intervention by the client process.

Additionally, the Examiner contends that in Wollrath's system, the "message endpoint would be the email system used". However, as with the Waldo reference described above regarding the double patenting rejection, Wollrath's does not rely on or include email messages or email systems. As with Waldo's system, Wollrath relies upon remote method invocation (RMI) to communication and interaction between the various components of Wollrath's system. No mention is made in Wollrath regarding email messages or email systems. The Examiner is relying upon his own speculation, which is clearly improper, in his rejection of claim 1.

Thus, for at least the reasons presented above, the rejection of claim 1 is not supported by the prior art and removal thereof is respectfully requested. Remarks similar to those above regarding claim 1 also apply to claims 24 and 41.

Regarding claim 8, Wollrath fails to teach or suggest that the service is a space service, wherein said space service comprises a plurality of service advertisements, wherein each service advertisement comprises information to enable access by client processes to resources provided by a corresponding service; wherein said client process is a service, wherein said plurality of service advertisements includes a service advertisement corresponding to said service; and wherein said lease access to said resource is lease access for publishing of said service advertisement, wherein, during said publishing, said service advertisement is accessible to client processes of said space service.

The Examiner rejects claim 8 by stating only, “the lease renewal notice would be an advertisement and would, inherently, contain an address to response to.” The Examiner has not cited any portion of Wollrath, but instead attempts to reject claim 8 based only upon the Examiner’s own (erroneous) conclusory opinion regarding the teachings of Wollrath. Wollrath does not teach or suggest anything regarding a space service that comprises a plurality of service advertisements each of which includes information to enable access to resources provided by services. Nor does Wollrath mention anything regarding a client process that is a service, wherein the lease access to the resource is lease access for publishing of the service advertisement. The Examiner is merely using hindsight analysis in an attempt to insert the limitations of claim 8 into the teachings of Wollrath. Such a rejection is clearly improper. Furthermore, even the single statement by the Examiner completely ignores several of the limitations of claim 8 discussed above.

**Applicants note that the Examiner has failed to provide any rebuttal of the above arguments regarding claim 8.** For at least the reasons above, the rejection of claim 8 is not supported by the prior art and removal thereof is respectfully requested. Remarks similar to those above regarding claim 8 also apply to claims 9, 20, 21, 30, 38, and 48.

Regarding claim 10, Wollrath fails to teach or suggest wherein the messages are in a data representation language. The Examiner asserts, “it would be inherent that the messages are in a data representation language as they represent data.” The Examiner’s statement is completely incorrect. Wollrath does not describe sending messages in a data representation language. Instead, Wollrath teaches that the various components of his system communicate via making calls to each other, such as Wollrath’s “clean” and “dirty” calls. Wollrath is referring to procedure calls between components, which may include remote procedure calls (RMI). Procedure calls and remote procedure calls between software components do not traditionally use messages in a data representation language. Data for such calls is generally encoded in a message, such as through the

process of marshalling, not described using a data representation language (such as XML).

Additionally, messages do not inherently use a data representation language just because they include data. Messages including data were used long before data representation languages were available. A data representation language (e.g. XML) is a specific type of language used for describing or representing data (e.g. content). Thus, it is not inherent to use a data representation language for a message merely because the message includes data, as suggested by the Examiner.

The Examiner, in response to the above arguments regarding Wollrath's failure to teach messages in a data representation language, argues that the use of data representation language would be inherent, "in that computers inherently represent data in languages they can understand." The Examiner further states, "computers understand binary code but are 'programmed' to understand other languages, such as Basic, Fortran or Java." However, as noted above, a data representation language is a particular type of language as is understood in the art, and the term "data representation language" does not merely refer to any language that a computer can understand, as the Examiner erroneously contends. The programming languages referred to by the Examiner are not data representation languages as data representation languages are understood in the art. One skilled in the art would not recognize Basic, Fortran, or Java as data representation languages, instead they are *programming* languages. Additionally, the Examiner's statements regarding programming languages bears absolutely no relevance to *messages in a data representation language*. Moreover, just because XML was known in the computer art does not mean that it would have been obvious to use XML or any other data representation language for messages as recited in claim 10. As the Federal Circuit stated in *In re Kotzab*, 55 USPQ2d 1313, 1316 (Fed. Cir. 2000):

Most if not all inventions arise from a combination of old elements. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of

the desirability of making the specific combination that was made by the applicant.

The Examiner has not provided any factual evidence showing that it would have been obvious to use messages in a data representation language as recited in claim 10. Thus, the rejection of claim 10 is not supported by the cited art and removal thereof is respectfully requested. Remarks similar to those above regarding claim 10 also apply to claims 22, 31, 39, 44 and 49.

Regarding claim 11, Wollrath fails to teach or suggest that the data representation language is eXtensible Markup Language (XML). The Examiner argues, "XML is well known in the art to be used for computer messages." Although XML is well known *for certain uses* in the prior art, XML is not well known for making procedure calls between software components as used for lease management in Wollrath. Moreover, Applicants disagree with the Examiner's contention that just because XML is well known in the computer art it would be obvious to modify Wollrath to include the use of XML. Instead, as noted above regarding claim 10, data for such communication between components is generally encoded, such as through marshalling, and performed using programmatic calls (such as RMI described in Wollrath) rather than using a data representation language message, such as an XML message. Wollrath does teach anything that suggests using XML for communicating between the various components of his system.

Additionally, as noted in § 2144.03(E) of the M.P.E.P., "[i]t is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principle evidence upon which a rejection is based." Thus, the rejection of claim 11 is improper because the Examiner has merely stated his opinion regarding XML without providing any evidentiary support for such a conclusion.

Furthermore, as noted in § 2144.01 of the M.P.E.P., "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." The



Examiner has provide no motivation for modifying Wollrath to include the use of messages in a data representation language other than the fact that XML was generally known.

Thus, for at least the reasons presented above, the rejection of claim 11 is not supported by the prior art and removal thereof is respectfully requested. Remarks similar to those above regarding claim 11 also apply to claims 23, 32, 40, 45 and 50.

In regard to claim 12, Wollrath does not teach or suggest that the same message endpoint that is used by the client process to send and receive messages for accessing the resource provided by the service also sends the lease renewal message automatically without intervention by the client process. In Wollrath, lease management communications are not performed through the same message endpoint that is used by the client process to send and receive messages for accessing the resource provided by the service. Thus, even if the lease management of Wollrath were automated, it would not suggest that the same message endpoint that is used by the client process to send and receive messages for accessing the resource provided by the service also sends the lease renewal message automatically without intervention by the client process. For a more detailed discussion regarding Wollrath's failure to teach that the same message endpoint that is used by the client process to send and receive messages for accessing the resource provided by the service also sends the lease renewal message automatically without intervention by the client process, please refer to the discussion of claim 1, above. For at least the reasons presented above, the rejection of claim 12 is not supported by the cited art. Similar arguments apply in regard to claims 33 and 46.

Regarding claim 16, Wollrath fails to teach or suggest a client process accessing a service advertisement for enabling access by client processes to resources provided by the service, the service advertisement comprising: a message schema comprising descriptions of messages for managing leases of resources provided by the service; and an address for the service receiving the messages for managing leases of resources provided by the service. The Examiner rejects claim 16 stating only, "the lease renewal notice would be

an advertisement and would, inherently, contain an address to response to”, without pointing out any portion of Wollrath supporting his erroneous assertion. Wollrath does not teach or even mention anything regarding accessing a service advertisement that comprises a message schema including descriptions of messages for managing leases of resources provided by a service. The Examiner has completely ignored this limitation of Applicants’ claim 16. The Examiner is merely stating his own conclusions based upon hindsight speculation, unsupported by the cited prior art in any way. The Examiner is attempting to insert the concept of service advertisements into the teachings of Wollrath without any corresponding teaching in Wollrath or any suggestion or motivation for modifying Wollrath. Thus, the rejection of claim 16 is improper.

For at least the reasons above, the rejection of claim 16 is not supported by the prior art and removal thereof is respectfully requested.

Regarding claim 17, Wollrath fails to teach or suggest a client message endpoint generating the lease renewal message in accordance with a description of the lease renewal message comprised in the description of messages comprises in a service advertisement. The Examiner cites claim 9 of Wollrath and states, “the message endpoint would do so in accordance with a description of the lease message.” However, the Examiner has failed to cite any such description of a lease message in a service advertisement. Claim 9 of Wollrath merely mentions sending a request for a new lease period, but makes not mention that such a message is in accordance with a description of the lease renewal message comprised in the description of messages from a service advertisement, as required by Applicants claim 17.

Additionally, the Examiner, in the rejection of claim 1, relies upon an email system sending email messages corresponding to a message endpoint. However such an interpretation of message endpoint is not compatible with the rejection of claim 17. Email systems and email messages do not have or utilize lease renewal message descriptions.

Wollrath fails to make any mention of a client message endpoint generating the lease renewal message in accordance with a description of the lease renewal message comprised in the description of messages comprises in a service advertisement. For at least the reasons above, the rejection of claim 17 is not supported by the prior art and removal thereof is respectfully requested. Similar remarks also apply to claim 36.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the rejection has been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.

#### **Information Disclosure Statements:**

The Examiner refers to the quantity of references included in various information disclosure statements submitted by Applicants. The Examiner also insinuates that the large number of references could be construed as an attempt to disguise relevant references among irrelevant references. Applicants strongly object to the Examiner's insinuation. The Examiner's statement is entirely without merit or evidence in support thereof. Applicants assert that every reference was submitted in good faith with no attempt to obfuscate or disguise the nature or relevance of any reference. As stated in M.P.E.P § 609, information disclosure statements are "to encourage individuals ... to submit information to the Office so *the Examiner* [not the Applicants] *can evaluate its relevance* to the claimed invention" (emphasis added). Applicants have no way of knowing what the Examiner may find relevant. All references submitted by Applicants were done so with the belief that the references *may* be relevant. Whether or not the Examiner would consider the information disclosure statements (filed 12/22/04, 12/29/04, 1/24/05, 3/11/05 and 3/31/05) to include "many pages of extraneous references", is not something that Applicants could have determined with certainty prior to submitting the references. Nor is it something that Applicants necessarily agree with. Each reference submitted was either cited or submitted in a patent application involving similar technology as the instant application. Applicants remind the Examiner that

Applicants' have a "duty of candor" under C.F.R. § 1.56. It is improper for the Examiner to criticize Applicants' attempts to ensure that they have satisfied their duty of candor.

Furthermore, as stated in M.P.E.P. § 609, "the examiner has *an obligation to consider*" information submitted in accordance with 37 CFR 1.97 and 37 CFR 1.98. Additionally, M.P.E.P. § 609 specifically states that "[m]ultiple information statements may be filed in a single application, and they *will* be considered." According to M.P.E.P. § 609, any information disclosure statement filed in accordance with the rules "*will be considered* by the Examiner ... in the same manner as other documents in Office search files are considered by the Examiner while conducting a search of the prior art in a proper field of search." As the information disclosure statements filed respectively on 12/22/04, 12/29/04, 1/24/05, 3/11/05 and 3/31/05 are all in compliance with 37 CFR 1.97 and 37 CFR 1.98, Applicants assert that the Examiner must fully and completely consider all references submitted so as to evaluate their relevance to the instant application in the same manner as other documents in Office search files are considered by the Examiner while conducting a search of the prior art in a proper field of search. This level of consideration is *required* by M.P.E.P. § 609. Note that M.P.E.P. § 609 does not allow the Examiner to shirk this responsibility just because the Examiner feels that too many references have been submitted.

## CONCLUSION

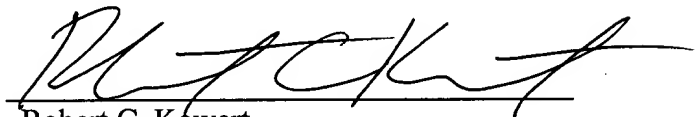
Applicants submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5181-63600/RCK.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Petition for Extension of Time
- ☐ Notice of Change of Address
- ☐ Other:

Respectfully submitted,



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